

Handwritten initials: JH, Low

PTO/SB/21 (04-07)

Approved for use through 09/30/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

6

Application Number

09/524,491

Filing Date

March 13, 2000

First Named Inventor

Francis J. Maguire, Jr.

Art Unit

2629

Examiner Name

Leonid SHAPIRO

Attorney Docket Number

313-011-1

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Ware, Fressola, Van Der Sluys & Adolphson, LLP		
Signature	<i>Keith R. Obert</i>		
Printed name	Keith R. Obert		
Date	July 23, 2007	Reg. No.	58,051

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature	<i>Kathleen Sipos</i>		
Typed or printed name	Kathleen Sipos	Date	July 23, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Attorney Docket No. 313-011-1
Serial No. 09/524,491

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:

Francis J. Maguire, Jr. : Confirmation No. **6120**
Serial No: **09/524,491** : Examiner: **Leonid SHAPIRO**
Filed: **March 13, 2000** : Group Art Unit: **2629**

For: MOVEABLE HEADREST FOR VIEWING IMAGES FROM DIFFERENT DIRECTIONS

Mail Stop Appeal Briefs-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

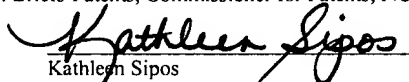
REPLY BRIEF

Sir:

This Reply Brief is in reply to the Examiner's Answer of June 12, 2007. This Reply Brief is in furtherance of the appeal from the final Office Action mailed May 23, 2006 rejecting claims 1-19.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to:
Mail Stop Appeal Briefs-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450


Kathleen Sipos
Dated: July 23, 2007

REMARKS

In response to the Examiner's Answer of June 12, 2007, appellant reiterates the arguments raised in appellant's Appeal Brief, and responds to the arguments raised by the Office as follows.

Response to Arguments

In response to the Examiner's arguments, appellant respectfully submits that Park (U.S. Patent No. 5,695,406) fails to disclose or suggest all of the limitations recited in claim 1. Park at least fails to disclose or suggest a movable headrest mounted on or with respect to a support for supporting a user, for moving with rotational movements with respect to the support, and for supporting a head of the user, as recited in claim 1. The Office incorrectly asserts that Park discloses all of the limitations recited in claim 1, because the Office fails to show that Park discloses the limitations arranged as required by claim 1. *See In re Bond*, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) (in order to anticipate a claim a reference must show the claim elements as arranged as in the claim); *see also Karsten Mfg. Corp. v. Cleveland Golf Co.*, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001).

On pages 6-7 of the Examiner's Answer, the Office responds to appellant's argument that the motion base 14 of Park does not correspond to the support recited in claim 1, and that the motion base 14 by itself is unsuitable for supporting a user by asserting that Park teaches a support, i.e. relaxation chair 12, shown in Figure 6A for supporting a user in a reclining position. However, the relaxation chair 12 cannot be considered to correspond to the support recited in claim 1, because claim 1 requires that the support has a moveable headrest mounted on or with respect to the support, and the moveable headrest is for moving with rotational movements with respect to the support. Therefore, the headrest and support recited in claim 1 are configured to move independently of each other. In contrast, the display hood 16 discussed in Park is not movable relative to the relaxation chair 12. *See Park* column 6, lines 13-15. Therefore, the elements asserted by the Office to correspond to the claim limitations cannot anticipate claim 1, because the elements of Park as not arranged as required by claim 1. *See In re Bond*, 15 USPQ2d at 1567.

On page 7 of the Examiner's Answer, the Office responds to appellant's arguments that the headrest is not movable relative to the relaxation chair by asserting that the motion base 14 is the equivalent to the support recited in claim 1. Appellant respectfully notes that in responding to appellant's arguments the Office has asserted that both the motion base 14 and relaxation chair 12 correspond to the support recited in claim 1. In response to appellant's arguments that the motion base 14 does not correspond to the support recited in claim 1, the Office asserts that the relaxation chair 12 corresponds to the support. In turn, when responding to appellant's arguments that the relaxation chair 12 does not correspond to the support, the Office asserts that the motion base 14 corresponds to the support. However, appellant respectfully notes that the Office has failed to address appellant's arguments with respect to why the motion base 14 and relaxation chair 12 do not correspond to the support recited in claim 1. Instead, the Office has merely pointed to another element of Park without responding to appellant's arguments as to why that element fails to correspond to the support recited in claim 1. However, in appellant's Appeal Brief, the appellant has presented arguments why neither the relaxation chair 12 nor motion base 14 correspond to the support recited in claim 1. Therefore, even if the Office relies upon the motion base 14 to correspond to the support recited in claim 1, because the motion base 14 fails to support the user as discussed in appellant's Appeal Brief on pages 5-6.

Appellant also respectfully notes that the Office has failed to respond to appellant's arguments with respect to claims 3-4 and 7. In addition to being dependent upon claim 1, and therefore not disclosed or suggested by Park at least in view of their dependencies, claims 3-4 and 7 recite an actuator for moving the movable headrest and an actuator for moving the support respectively. The Office has merely asserted in the Ground of Rejection section that items 15 and 50 of Figures 1a-1d correspond to the actuator recited in claims 3-4 and 7. However, the Office has failed to address the reasons presented by appellant as to why items 15 and 50 do not correspond to the actuators recited in claims 3-4 and 7.

Furthermore, appellant respectfully notes that the Office has failed to respond to appellant's arguments with respect to claim 8. Independent claim 8 contains limitations similar to those recited in claim 1, and additionally recites a sensor coupled to the movable headrest. The display hood 16 of Park is not movable, and therefore the system discussed in Park is incapable of sensing head movements of a user, as recited in claim 8.

In response to appellant's arguments that there is no motivation to combine Helman (U.S. Patent No. 5,791,735) with Park, the Office provides a new motivation to combine the cited references by asserting that the combination will give additional movement capability to the user. However, the Office has engaged in impermissible hindsight reasoning by using applicant's own disclosure to provide the motivation to combine the references. Using the invention as a roadmap in order to find its components in the prior art is impermissible hindsight reasoning. *Ruiz v. A.B. Chance Co.*, 69 USPQ2d 1686, 1690 (Fed. Cir. 2004); *see also In re Gorman*, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991) (it is impermissible simply to engage in hindsight reconstruction of the claimed invention using the applicant's structure as a template and selecting elements from references to fill the gaps). Applicant referred to Helman (U.S. Patent No. 5,791,735) on page 6 of the specification to describe a headrest embodiment of the present invention. The Office has merely combined the teachings of Park and Helman using the applicant's own disclosure, because there is no motivation to combine the system disclosed in Park with the teachings of Helman. When an invention is contended to be obvious based on a combination of elements across different references, there must be a suggestion, motivation or teaching to those skilled in the art for such a combination. *Barbell Co. v. USA Sports Inc.*, 73 USPQ2d 1225, 1227 (Fed. Cir. 2004). Therefore, the Office has failed to show proper motivation to combine the cited references, and as such has failed to establish a prima facie case of obviousness.

Conclusion

For the reasons discussed above, applicant respectfully submits that the rejections of the final Office Action have been shown to be inapplicable, and respectfully requests that the Board reverses the rejections to pending claims 1-19. The Commissioner is hereby authorized to charge Deposit Account 23-0442 for any fee deficiency required to submit this Reply Brief.

Respectfully submitted:

Date: 23 July 2007

Keith R. Obert
Keith R. Obert
Attorney for Appellant
Registration No. 58,051

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON, LLP
755 Main Street, PO Box 224
Monroe, CT 06468
Telephone: (203) 261-1234
Facsimile: (203) 261-5676